

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762)	WT Docket No. 06-150
and 777-792 MHz Bands)	
)	
Revision of the Commission's Rules to)	CC Docket No. 94-102
Ensure)	
Compatibility with Enhanced 911)	
Emergency)	
Calling Systems)	WT Docket No. 01-309
)	
Section 68.4(a) of the Commission's)	
Rules)	WT Docket No. 03-264
Governing Hearing Aid-Compatible)	
Telephones)	
)	
Biennial Regulatory Review –)	
Amendment of Parts 1, 22, 24, 27, and)	WT Docket No. 06-169
90 to Streamline and Harmonize)	
Various Rules Affecting Wireless Radio)	
Services)	
)	
Former Nextel)	PS Docket No. 06-229
Communications, Inc. Upper)	
700 MHz Guard Band Licenses)	
and Revisions to Part 27 of the)	
Commission's Rules)	WT Docket No. 96-86
)	
Implementing a Nationwide,)	
Broadband, Interoperable)	
Public Safety Network in the)	
700 MHz Band)	
)	
Development of Operational, Technical		
and Spectrum Requirements for		
Meeting Federal, State and Local Public		
Safety Communications Requirements		
Through the Year 2010		

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: April 25, 2007

Released: April 27, 2007

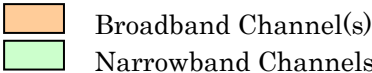
COMMENTS OF ARLINGTON COUNTY VIRGINIA
June 4, 2007

1. Arlington County, Virginia is located adjacent to the District of Columbia and is a vital part of the Washington metropolitan area. The County is also home to critical federal facilities including the Pentagon, which was attacked by terrorists on September 11, 2001. With respect to transportation infrastructure, one of the nation's busiest interstate corridors, Interstates 66 and 395, runs throughout the County as well as a major north-south rail line and Washington Reagan National Airport. The County is extremely sensitive to the fact that many international attacks of terrorism have been directed at major population centers and transportation systems and believes that the development of a fully interoperable public safety communications system is a critical element of the Region's homeland security program.
2. The Arlington County Communications Center provides public safety communications services throughout the County and operates land mobile radio systems as defined in 47 C.F.R §90.20 in support of Law Enforcement, Fire, and Emergency Medical Services as well as related Homeland Security activities.
3. Arlington County, Virginia is a member of the Washington, D.C. National Capital Region (NCR), a regional planning organization chartered by the Congress of the United States pursuant to 40 U.S.C 71(b).
4. The County has an overarching interest in all issues related to Docket WT 96-86 and the Notices of Proposed Rule Making and Instant Dockets related thereto.

5. With respect to ¶263 of the FNPRM, the County wishes to address specific issues where the Commission requested comments. “We seek comment on how to implement reconfiguration of the 700 MHz public safety narrowband channels with minimum disruption to incumbent operations....We also seek comment on the appropriate timing of relocating narrowband operations. How quickly should the narrowband channel consolidation be completed, in view of the February 17, 2009 date by which incumbent broadcasters are to be cleared from the 700 MHz Band?”

PROPOSED RECONFIGURATION OF 700 MHz PUBLIC SAFETY BAND

769 Public Safety Allocation								799 Public Safety Allocation		
Broadband	G B	Narrowband	Commercial Allocation					Broadband	G B	Narrowband
CH. 63		CH. 64	CH. 65	CH. 66	CH. 67			CH. 68		CH. 69
764	770	776	782	788	794			800		806



Arlington County would urge the Commission to expedite the implementation of the proposed frequency plan as provided in Figure 12 of the FNPRM as it relates to narrowband voice channels. We believe that the Commission should carefully assess the multiple plans offered from the public safety community and industry before establishing a bandplan related to broadband/wideband spectrum.

6. The County notes that while we favor the availability of either broadband or wideband channels for mobile data, the implementation of some type of plan supporting wireless broadband and also the option of wideband systems in 700 MHz, is required by public safety and likely to be implemented by the Commission. Believing that such a plan will require reconfiguration of the current 700 MHz public safety band plan, the County encourages the Commission to develop expeditiously a two-pronged strategy for “General Use” narrowband voice channels as encompassed in 47 C.F.R. §90.531(b)(6). Using Regional Planning Committees for coordination, if there are no current public safety licensees operating in the “General Use” 700 MHz band within a Regional Planning Committee’s area of responsibility and no interference to any current (General Use) licensees outside of the Region will occur through system implementation, then all new 700 MHz narrowband “General Use” voice licensees should use the 770-776 and 800-806 MHz spectrum described in Figure 12 of the FNPRM subject to the provisions of 47 C.F.R. §90.545. With respect to existing 700 MHz public safety licensees utilizing “General Use” narrowband voice channels, the County believes that the Commission, or an appropriate surrogate, should consult individually with the thirty-eight (38) existing licensees¹ and develop tailored plans mutually with each licensee. Such a strategy would be consistent with the FNPRM finding, “the record suggests that the costs and inconveniences of consolidating the

¹ At ¶262

narrowband channels are minor compared to the relative potential for accommodating future technologies.”²

7. The County recognizes that there are other proposed users of the narrowband voice channels defined throughout 47 C.F.R. §90.531. The County’s comments are directed solely to 47 C.F.R. §90.531(b)(6) and we would urge the Commission to consider separately the comments of state governments, Regional Planning Committees, and others relative to the other services described in 47 C.F.R. §90.531 as we have no standing to speak for these users.
8. The County believes that it is critical that the Commission adopt the revised band plan as reflected in Figure 12 of the FNPRM expeditiously. The comments filed by Motorola suggest that rapid adoption of the new band plan is essential for critical new systems. As stated in the Motorola response³ to the FNPRM, “Motorola estimates that once the Commission locks down the specifics of the band plan, it will take approximately 12 months to develop the revised code plug programming software and conduct the necessary testing to ensure that aspects of the radios other than the translation of the operating frequencies would not be affected. In parallel, the public safety CAPRAD database and programs used by the regional planning bodies to

² See Region 24 Comments in WT Docket No. 96-86 at 15; Region 39 Comments in WT Docket No. 96-86 at 1 (now is the best time to consider new ideas as very little has been put into effect).

³ Comments of Motorola, Steve B. Sharkey Director, Spectrum and Standards Strategy Motorola, Inc. 1455 Pennsylvania Avenue, NW Suite 900 Washington, DC 20004 submitted May 23, 2007

assign channels going forward must be modified and frequency translations of the regional plans must be completed. Also, the details of mechanisms to transfer money from the provider of the funds to the public safety agencies would need to be finalized. Once the revised code plug programming software is available to public safety customers, the funding details are established, the CAPRAD programs and the regional plans have been modified, it would be prudent to allow at least 6 to 9 months to retune all the mobiles, portables and base stations then operating on 700 MHz. Therefore, if the Commission can lock down the band plan in the June 2007 timeframe, a very aggressive deadline for consolidating the narrowband segments into a combined six megahertz paired block at the upper end of the public safety 700 MHz band would be February 17, 2009.” Again, the County recommends in the strongest possible terms that the Commission adopt the proposed narrowband voice channel plan as identified in Figure 12 of the FNPRM. If the Commission cannot adopt this bandplan by June of 2007, every month of delay in regulatory action will directly and adversely impact the NCR member jurisdictions from comprehensive interoperability throughout the NCR.

9. The FNPRM at ¶264 also states, “Primary to the issue of how a relocation of public safety narrowband would occur is the determination of the costs of the relocation and how (or from whom) the costs will be covered. In order to estimate the true costs associated with relocation as accurately as possible, we seek up-to-date information regarding how many narrowband radios are

currently deployed and how many are actively being used.⁴ Based on those estimates, we ask commenters to quantify the costs that would be involved with consolidating the narrowband channels and relocating existing deployments. We also seek comment on how these costs should be funded, if we should not adopt the tentative conclusion above to impose the funding requirement on the D Block licensees.⁵ Given the significant benefits of reconfiguration, and that the number of entities impacted and expected cost of reconfiguration should be relatively minor (especially in comparison to, *e.g.*, the 800 MHz Band reconfiguration),⁶ it is also appropriate to consider, among other options, whether public safety should pay for its own relocation costs. The Commission has on occasion required incumbents to fund their own relocations.”⁷ The County is sensitive to the issue of federal rule making and the concomitant impact of meeting unfunded requirements. In this case, the record should indicate clearly that each of the thirty-eight (38) licensees constructed systems is fully compliant with 47 C.F.R. §90 Subpart R. These few licensees should be held fiscally “harmless” for the reconfiguration and

⁴ In a recent *Ex Parte* presentation, Motorola estimates that 750,000-800,000 dual 700/800 MHz radios have been deployed, but Motorola does not provide an estimate on the number of such radios that have already been programmed to operate at 700 MHz. *See* Motorola Mar. 6, 2007 *Ex Parte* at 8.

⁵ We note that although Access Spectrum and Pegasus proposed to assume the entire cost of reconfiguration, conditioned on adoption of the BOP, we have tentatively concluded that we cannot adopt the BOP.

⁶ *800 MHz Report and Order*, 19 FCC Rcd at 15064 para. 179 (the Consensus Parties estimated the cost for reconfiguring the 800 MHz Band at \$850 million).

⁷ *See* Amendment of the Commission's Rules Relative to the Licensing of Microwave Radio Stations Used to Relay Television Signals to Community Antenna Television Systems, *First Report and Order and Further Notice of Proposed Rulemaking*, Docket No. 15586, 1 FCC 2d 897, 911 (1965).

the resulting broadband licensee, if any, should reimburse the licensee for all appropriate costs of all kinds associated with the mandated frequency reconfiguration. The County believes that the Commission set the correct tone for the development of a reimbursement strategy in the Memorandum Opinion and Order released on May 18, 2007⁸ by finding, “the term “minimum necessary” cost does not mean the absolute lowest cost in all circumstances. Rather, the term refers to the minimum cost necessary to accomplish rebanding in a reasonable, prudent, and timely manner. We do not expect Sprint to insist on reducing rebanding costs to their lowest possible level if the cost savings it seeks to achieve come at the expense of a reasonable, prudent, and timely approach toward accomplishing the rebanding task in question⁹.” The Commission continued, “In some instances, achieving these (rebanding) goals may justify greater expenditure than the minimum cost required to accomplish a task if these goals were not considered. For example, if identifying the most inexpensive equipment component required to provide “comparable facilities” would take months, thereby impeding timely completion of the task, Sprint would be justified in purchasing a slightly more expensive component that could be identified and procured within a few days.”¹⁰ The County in no way advocates another reconfiguration program such as has been developed for 800 MHz rebanding.

⁸ FCC 07-92

⁹ At ¶6

¹⁰ At ¶9

However, in this Memorandum Opinion and Order, the Commission provided “common sense” flexibility that benefitted both the impacted licensee as well as the party fiscally responsible for the rebanding. The County believes that through individually tailored plans with each of the affected licensees, an appropriate cost allocation strategy could be developed that obviates many of the problems¹¹ that have resulted from the original implementation of Docket WT 02-55.

10. In summary, the County urges the Commission to implement the proposed narrowband “General Use” channel plan as depicted in the FNPRM Figure 12 expeditiously or terminate its consideration of a new band plan. This has been an outstanding issue for many months and it is time to finalize the narrowband voice plan. Prolonged delays in regulatory action may adversely affect the project schedule of a critically needed public safety communications system.

/s/

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¹¹ *Rebanding Realities Nearly Three Years On: An RCC Consultants, Inc., Discussion Paper* The 800 MHz Rebanding: Good Intentions, Structural Flaws, and Implementation Failures submitted in response to Docket WT 02-55 on May 17, 2007

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